

CHAPTER 10: OFFENSES

Article

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ARTICLE 10-1: MISCELLANEOUS OFFENSES

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§ 10-1-1 DANGEROUS CONSTRUCTIONS.

It is unlawful for any person to maintain or allow any signs, billboards, awnings, canopies or other structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

§ 10-1-2 EXCAVATIONS TO BE COVERED.

A. It is unlawful for any person to make any excavation or dig any hole, drain, trench or ditch in any right-of-way in the city without providing a sufficient flashing light at night and a temporary fence or suitable barrier around or in front of such excavation.

B. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than 2 feet in depth on any unenclosed lot, without providing substantial curbing, covering or protection of such excavation.

§ 10-1-3 HAZARDS.

A. It is unlawful for any person to blast or use powder, fireworks or other explosives within city limits without first obtaining a written permit from the Sedona Fire Department. A copy of this permit shall be provided to the City Engineer and the Police Chief by the permittee.

B. It is unlawful for any person to store or maintain any explosive or hazardous material except as provided in the Uniform Fire Code as adopted by the Sedona Fire Department.

C. Open burning of any material at any time is unlawful. The burning of agricultural waste, as may be allowed upon issuance of a permit by the Sedona Fire Department, is excepted from this section. A copy of such permit shall be provided to the Police Chief by the permittee.

§ 10-1-4 CURFEW HOURS FOR MINORS.

A. *Definitions.* For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action.

GUARDIAN. A person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or is at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.

INSUFFICIENT CONTROL. Failure to exercise reasonable care and diligence in the supervision of the juvenile.

MINOR. Any person under 18 years of age.

PARENT. A person who is a natural parent, adoptive parent or stepparent of another person.

B. *Offenses.*

1. It is unlawful for any minor under the age of 16 years to be in, about or upon any place in the city away from the property where the minor resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.

2. It is unlawful for any minor 16 years of age or older and under the age of 18 years to be in, about or upon any place in the city away from the property where the minor resides between the hours of 12:00 a.m. and 5:00 a.m.

3. It is unlawful for a parent, guardian or other person having supervisory custody of a minor to knowingly permit or, by insufficient-control, allow the minor to violate the provisions of paragraphs 1. or 2. of this subsection, except as expressly provided herein. It shall not constitute an exception hereto that such parent, guardian or other person having responsibility for the minor did not have actual knowledge of the minor's violation of paragraphs 1. or 2. of this subsection, if such parent, guardian or other person having responsibility for the minor, in the exercise of reasonable care and diligence, should have known of the aforementioned unlawful acts of the minor.

4. It is unlawful for a parent, guardian or other person having the care, custody or supervision of a minor to fail or refuse to take custody of the minor after such demand is made upon the parent or guardian by a

law enforcement officer who arrests the minor for violation of paragraphs 1. or 2. of this subsection.

C. *Exceptions.* It is an exception to prosecution under subsection B. of this section, including paragraph 3. of that subsection, that the minor was:

1. Accompanied by the minor's parent or guardian or an adult having supervisory custody of the minor;
2. With prior permission of the parent or guardian or an adult having supervisory custody, in a motor vehicle involved in interstate travel;
3. With prior permission of the parent or guardian or an adult having supervisory custody, in an employment activity or going to or returning home from an employment activity without a detour or stop by the most direct route;
4. On an emergency errand;
5. On reasonable, legitimate and specific business or activity directed or permitted by a parent, guardian or other adult person having the care, custody or supervision of such minor, or going to or returning home from such business or activity without a detour or stop by the most direct route;
6. Engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution with prior permission of the parent or guardian or an adult having supervisory custody;
7. Married and 16 years of age or over, or in the military;
8. On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.

D. *Enforcement.*

1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no exception as provided in subsection C. of this section is probably present.
2. In addition to any other powers a law enforcement officer may have, any law enforcement officer who arrests a minor for violating any of the provisions of subsection B., paragraphs 1. or 2. of this section is also empowered to demand of the parent, guardian or adult having supervisory custody that such parent, guardian or other adult come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made for a parent, guardian, an adult having supervisory custody or other appropriate party to take custody of the minor. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

E. *Separate offenses.* Each violation of the provisions of subsection B. of this section shall constitute a separate offense.

F. *Penalties.*

1. Any person who violates paragraphs 1., 2. or 4. of subsection B. of this section is guilty of a Class 1 misdemeanor. This offense is designated as an incorrigible offense for minors under the jurisdiction of the Juvenile Court.

2. Any person who violates paragraph 3. of subsection B. of this section shall be guilty of a petty offense.

§ 10-1-5 NUISANCES.

It is unlawful for any person to maintain a public nuisance. Anything which is injurious to health or indecent or offensive to the senses, or which interferes with the comfortable enjoyment of life or property or anything which unlawfully obstructs the free passage or use in a customary manner of any public place, street, sidewalk or alley in the city is a public nuisance and subject to summary abatement.

§ 10-1-6 WATER AND EARTHEN MATERIAL FLOW.

It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water or earthen material onto streets or adjacent properties in such manner as to cause flooding or to endanger or impede vehicular or pedestrian traffic. Earthen materials in this reference shall include but not be limited to soil, silt, clay, sand, gravel, rock, dirt, mud, organic material or combination thereof.

§ 10-1-7 OBSTRUCTION OF CITY OFFICIAL.

It is unlawful for any person to obstruct any public official or city employee in the lawful performance of official duties.

§ 10-1-8 WEAPONS AND FIREARMS.

A. Misconduct involving weapons and firearms within the city shall be controlled pursuant to A.R.S. §§ 13-3101 *et seq.* Firearms regulations shall be preempted by the State of Arizona pursuant to A.R.S. § 13-3108.

B. The discharge of pellet guns, BB guns, air rifles and similar devices within the city in such a manner as to endanger any person or animal shall be prohibited.

§ 10-1-9 HUNTING.

A. No person shall take wildlife within the city limits, subject to the provisions of state law.

B. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TAKE. The shooting, hunting or killing of wildlife.

WILDLIFE. All wild mammals, wild birds and reptiles.

C. This section does not apply to the taking of wildlife by duly commissioned law enforcement officers as part of their official duties in maintaining the public safety.

(Am. Ord. 07-00, passed - -)

ARTICLE 10-2: GUEST REGISTERS

Section

10-2-1 Registration required

10-2-2 False register entries

§ 10-2-1 REGISTRATION REQUIRED.

It is unlawful for any owner, operator or person in charge of any hotel, rooming house, motel, auto court or bed and breakfast establishment within the city to furnish accommodations therein to any person without first entering in a register to be kept for that purpose, the name and address of each guest and requiring the guest to affix his signature to such register. Such register shall be available at all times for inspection of any police officer upon request.

§ 10-2-2 FALSE REGISTER ENTRIES.

It is unlawful for any person to enter in the guest register of any hotel, rooming house, motel, auto court or bed and breakfast establishment within the city a false or fictitious name, or a false or fictitious address, knowing it to be false.

ARTICLE 10-3: CAMPING AND SLEEPING IN CERTAIN PLACES

Section

10-3-1 Camping and sleeping in certain places

§ 10-3-1 CAMPING AND SLEEPING IN CERTAIN PLACES.

A. It shall be unlawful for any person to set up, use or maintain any temporary structure, tent, bag, vehicle, camper or any other thing for the purpose of camping, lodging, sleeping, cooking, or starting or maintaining a campfire, or establishing a temporary place of rest, on any public property within the city limits unless exempted by the following subsections.

B. It shall be unlawful for any person to set up, use or maintain any temporary structure, tent, bag, vehicle, camper or any other thing for the purpose of camping, lodging, sleeping, cooking, or starting or maintaining a campfire, or establishing a temporary place of rest, on any private property within the city limits unless exempted by the following subsections.

C. It shall be unlawful for any person to sleep in or upon any public building, alley, sidewalk, public way, or any federal, state, county or municipal designated trail head, or any property owned, operated or managed by any local, state or federal agency or department or any Indian tribe, or any other public place or facility within the corporate limits of the city.

D. It shall be unlawful for any property owner of any private property, or any manager, renter, lessee or agent thereof, to knowingly permit any person to violate this article.

E. No person shall be arrested for a violation of any provision in this article unless such person continues to engage in such conduct after warning by any police officer, an authorized representative of the government entity managing or responsible for such public property, or the property owner, manager, renter, lessee or agent thereof, as the case may be, or unless such property is conspicuously posted, warning of the provisions of subsection A., B. or C. of this article, and designating such violation thereof as a misdemeanor.

F. This article shall not apply to the ordinary and permitted uses of improved residential lots subject to and in conformity with the Land Development Code of the city, nor shall this article be interpreted to limit the use of such lots by the owners thereof for any lawful purpose.

G. This article shall not apply to legally permitted campgrounds operated or controlled by private persons or government agencies, including but not limited to the United States Forest Service within the Sedona city limits.

H. This article shall not be construed to limit the normal activities or designated uses of the public parks of the city.

I. This article shall not apply to the parking of any vehicle camper or recreational vehicle for a period of less than 24 hours with the consent, express or implied, of the respective government property owner, manager, renter, lessee or agent thereof, unless the property upon which any such vehicle, camper or recreational vehicle is parked is conspicuously posted as provided in subsection E. of this article or unless an authorized agent of the respective government entity managing or responsible for such public property or the property owner, manager, renter, lessee or agent thereof specifically requests that such vehicle, camper or recreational vehicle be removed within the 24-hour period.

J. Unless otherwise specifically permitted by this article, the parking of any vehicle, tent, camper, recreational vehicle or other similar device in any location for more than 24 hours when not upon one's own real property shall be prima facie evidence of intent to violate this article.

K. Any violation of this article shall constitute a Class I misdemeanor, punishable by a fine of not more than \$2,500 or by 6 months in jail, or both.

ARTICLE 10-4: REGULATION OF PSEUDO-EPHEDRINE PRODUCTS

Section

- 10-4-1 Definitions
- 10-4-2 Security of pseudo-ephedrine products
- 10-4-3 Sale by pharmacist or licensed pharmacy technician
- 10-4-4 Quantity that may be sold
- 10-4-5 Purchaser identification requirements
- 10-4-6 Confidentiality of identification information
- 10-4-7 Requirement to report suspicious sale

§ 10-4-1 DEFINITIONS.

For the purpose of this article, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

LICENSED PHARMACY TECHNICIAN. A person licensed by the state to assist a pharmacist.

PHARMACIST. A person licensed by the state in the art, practice, or profession of preparing, preserving, compounding, and dispensing medical drugs.

PROPER IDENTIFICATION. A recognized government issued photo identification of purchaser including, but not limited to, a driver's license, identification card or passport.

PSEUDO-EPHEDRINE. A drug commonly used in decongestants and can be illegally processed to make methamphetamine. Ephedrine, norpseudoephedrine, and phenylpropanolamine shall be included in this definition as pseudo-ephedrine products.

(Ord. 2005-12, passed 9-27-2005)

§ 10-4-2 SECURITY OF PSEUDO-EPHEDRINE PRODUCTS.

Any establishment that offers pseudo-ephedrine products in a tablet or powdered form must hold such products in an area that is not accessible to the public and where such products are continually monitored to prevent theft or unauthorized or uncontrolled purchases.

(Ord. 2005-12, passed 9-27-2005)

§ 10-4-3 SALE BY PHARMACIST OR LICENSED PHARMACY TECHNICIAN.

It shall be required that any compound, mixture or preparation that contains detectable quantities of pseudo-ephedrine in a tablet or powdered form be sold by a pharmacist or licensed pharmacy technician.
(Ord. 2005-12, passed 9-27-2005)

§ 10-4-4 QUANTITY THAT MAY BE SOLD.

It shall be prohibited for a retailer to sell more than a total of 9 grams in tablet or powdered form of ephedrine, pseudo-ephedrine, norpseudoephedrine or phenylpropanolamine to a person within a 30-day period. Provided however, this limit shall not apply to any quantity of such tablet or powdered form of ephedrine, pseudo-ephedrine, norpseudoephedrine or phenylpropanolamine dispensed pursuant to a valid prescription.
(Ord. 2005-12, passed 9-27-2005)

§ 10-4-5 PURCHASER IDENTIFICATION REQUIREMENTS.

It shall be required that any person purchasing pseudo-ephedrine products in a tablet or powdered form present proper identification and sign a log that shows the date of the transaction, the name of the purchaser, and the amount of the compound requested.
(Ord. 2005-12, passed 9-27-2005)

§ 10-4-6 CONFIDENTIALITY OF IDENTIFICATION INFORMATION.

The purchaser log will be retained by retailer for a period of 6 months, unless otherwise directed by law enforcement, and will be considered a confidential document that will only be available to the pharmacist, licensed pharmacy technician, law enforcement, or by order of a court.
(Ord. 2005-12, passed 9-27-2005)

§ 10-4-7 REQUIREMENT TO REPORT SUSPICIOUS SALE.

The retailer and pharmacy employees will be required to report to the police department by telephone any attempt by a purchaser to purchase larger quantities than allowable by this article or any other suspicious activity or purchases that may be related to the manufacture or possession of illegal drugs.
(Ord. 2005-12, passed 9-27-2005)

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